Newsletter of the Utah Prosecution Council

The PROSECUTOR

Director's Thoughts

It's been a whirlwind these last six weeks as I've assumed Mark's job. I tried to absorb all of Marks wisdom, experience, knowledge and expertise in two short weeks but the reality is, you can't. I'm just glad that Mark's only a phone call away. Thankfully Marilyn, Ed, Donna and Ron, as well as the rest of the staff here have been a tremendous help. Thanks to you all!

Exciting things are happening, and I wanted to share just a couple with you. Donna Kelly and Det. Justin Boardman of the West Valley Police Department are beginning a year-long, nationally sponsored, study to develop a protocol for interviewing trauma victims. There are currently no protocols available on how to deal with or interview victims of traumatic experiences; sexual assault, violent assault, DV, etc. Because of their work, Utah is receiving national attention. Donna has already been invited to speak at several conferences next year on this study.

"Trauma Informed Response" is a new way for officers, prosecutors, judges, juries, victim advocates, etc. to look at the way victims of trauma respond. I've sat through a couple of their training sessions and walked away with a whole new insight and perspective on how victims react to trauma and how they relate the events they went through. Donna and Det. Boardman have developed specific training that will truly open your and your officer's eyes. Please take advantage of their expertise.

Other changes I hope you'll start to see include a revamping of UPC's website. I want to make it more user friendly – meaning that you can come to our website and find valuable resources to use in your practice. Examples include a "Motion Bank," a Q&A section, short training videos, "How To" manuals, items for your own

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personal "Tool Box" and so much more.

Please let me know what we can do for you. What kind of training would you like to see? What works and what doesn't? Do you know someone who would make a great presenter at a future conference? Would you like to be a presenter at a future conference? How can we make the newsletter better? How can we be a better resource? How can we make you a better attorney, prosecutor? If you've got ideas, please let us know.

Best,

Bob

P.S. In April's issue of *The Prosecutor*, I was asked to provide information for the monthly profile. I provided a lot of information and some of the answers that made it into the newsletter were inadvertently offensive to some and were written about in the Salt Lake Tribune. I apologize if my quote or stories offended you. Please let me explain my reasons for offering the information.

My favorite quote came from my grandfather, who is a hero of mine. He had two maxims that he lived by. The first was the quote I shared that read, "I, the Lord, am bound when ye do what I say; but when ye do not what I say, ye have no promise" and the second was, "My word is my bond." Although this first quote happens to be LDS scripture, I did not choose it because of its source, I chose it because my grandfather instilled in me a belief in both of these principles. The funny thing is that my grandfather was not a member of the Church of Jesus Christ of Latter-day Saints when he taught me the saying.

If this quote is still inappropriate for your taste, let me share my favorite legal quote. "My job as a prosecutor is to do justice. And justice is served when a guilty man is convicted and an innocent man is not." Sonia Sotomayor

Sadly, the stories I shared about my time in the court room were not taken how I intended. I sincerely hope that my record as a prosecutor speaks for itself and that through UPC programs and training I will have the opportunity to further dispel any misconceptions. The humorous anecdotes I shared were written for prosecutors and were intended as a commentary on situations we've encountered in our careers. It was never my intent to offend anyone.

I am happy to report that I have learned a great life lesson from this and will certainly try to help future profiled prosecutors avoid seeing their names in the Tribune! Another good thing is that I finally understand that quote my wife has hanging in our kitchen that she tried to instill in our boys, especially when they came home from school mad at something that was said to them that day. It goes like this, "It is a fool who takes offense when it is not intended, but it is a greater fool who takes offense when it is intended." Words we can all live by. Again, regardless of the source.

United States Supreme Court

Anonymous 911 Tips May Be Sufficient Grounds for a Traffic Stop

A California High Patrol (CHP) officer conducted a traffic stop of petitioner's vehicle because it matched the description of a vehicle that a 911 caller had reported to have run her off the road. Upon approaching the car, the CHP officer smelled marijuana, which led him to search the vehicle and recover a thirty pound bag of marijuana.

At the trial court, the petitioner moved to suppress evidence because the traffic stop allegedly violated the Fourth Amendment's prohibition of unlawful searches.

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The trial court denied the motion, and the petitioner plead guilty to transporting marijuana. The California Court of Appeals affirmed and held the stop did not violate the Fourth Amendment because the CHP officer's decision to conduct the search was based on reasonable suspicion, given that the 911caller was an eyewitness to the alleged criminal conduct and the petitioner's vehicle matched the description of the vehicle described by the 911 caller. The California Supreme Court denied review. The United States Supreme Court subsequently granted certiorari.

The United States Supreme Court affirmed that judgment of the California Court of Appeals, explaining that the traffic stop did not violate the Fourth Amendment because, under the totality of the circumstances, the CHP officer's decision to stop the petitioner was based on a reasonable suspicion. The Supreme Court further explained, although an anonymous tip is not typically enough to create a reasonable suspicion, there are circumstances in which an anonymous tip may be sufficiently reliable. In this case, the tip was adequate because the 911 caller claimed an eyewitness basis of knowledge by reporting she had been run off the road. Furthermore, the amount of time between the incident and the 911 phone call suggest the caller had little time to fabricate a story. The court not only held that the tip was reliable, but it also determined that it created a reasonable suspicion of criminal conduct. Being run off the road is the type of driving indicative of "the sort of impairment that

characterizes drunk driving." Although the defendant's erratic driving may have been explained by other innocent causes, law enforcement officers are not required to rule out innocent conduct before acting upon a reasonable suspicion.

Prado Navarett et al. v. California, 572 U.S. No. 12-9490 (2013)

Utah Supreme Court

Prior Bad Acts Used as Evidence to Convict Mother for Murder

Adriana Lucero was convicted of murder and child abuse of her two-year old son, Alex. His death resulted from his back being bent with sufficient force to snap his spinal cord, rupturing the aortic valve. Lucero accused her boyfriend, Sergio Martinez, of murdering her son. Alex had also suffered prior injuries that a medical examiner concluded were consistent with the same back-bending force that caused Alex's death. Evidence of these prior injuries that Alex had suffered was admitted to corroborate Lucero's culpability for Alex's death. Lucero was ultimately convicted of murder and child abuse.

Lucero appealed, alleging that the trial court "abused its discretion in admitting evidence of prior child abuse under Utah Rule of Evidence 404(b). The Utah Supreme Court affirmed the findings of the trial court, holding the trial court did not abuse its discretion in admitting evidence of prior child abuse pursuant to rule 404 (b). The Court reiterated the three part test for admitting proof of prior bad acts: first, the evidence of prior bad acts must be relevant and offered for a non-character purpose, second, the probative value of the evidence must not be outweighed by the risk of unfair prejudice to the defendant, third, any conditional evidence admitted must meet the preponderance of the evidence standard. Although other states have adopted the clear and convincing evidence standard in regard to prior bad acts, the court declined to do so. The court held similar act evidence is admissible only if a jury could reasonable conclude by the preponderance of the evidence that (1) the act occurred and (2) the defendant was the actor. After examining the record, the Court affirmed the judgment of the lower court and held it did not abuse its discretion in admitting evidence of prior bad acts.

State v. Lucero, 2014 UT 15

Utah's E-Warrant System Constitutional

Gabriel Perez (defendant) pled guilty to criminal negligent automobile homicide. Defendant failed to stop at a red light, which resulted in a multi-car accident, injuring several and killing one person. At the hospital, the police applied for a eWarrant to draw a blood sample from the defendant. Although the defendant plead guilty, he reserved the right to appeal the district court's denial of his motion to suppress evidence obtained through a blood draw. Defendant claimed the manner

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PROSECUTOR PROFILE

Gavin Anderson
Deputy District Attorney
Salt Lake County District Attorney

Gavin was born and grew up in Provo. When he was young, he wanted to be an archeologist. Gavin's parents were the biggest influence in his life, and his relationship with them shaped his perspective. He attended Brigham Young University and graduated with a degree in philosophy and English. He then attended BYU Law - J. Reuben Clark Law School before getting his Masters in Public Administration from the University of Utah. Gavin has been married to his wife for 38 years, and they have five children.

About his career Gavin wrote:
Through my undergraduate and law school years, I wanted nothing but to be a prosecutor somewhere in Utah. Jobs were a little scarce, but I landed a position in SLCO a few months after graduation - 1979; the only opening was in the civil division, not on the prosecutor side of the office. But the elected attorney, Ted Cannon, promised me the first prosecution slot that opened up – that didn't happen for about 6 months and by that time I decided I liked the civil duties better and stayed where I was (for 35 years!). Other than a couple of terms of elected attorneys, I've immensely enjoyed the civil practice in the public sector and haven't gotten burned out yet. I've ended up doing a lot of administrative and organizational things in SLCo's government, including doing most of the setting up and drafting of the new form of SLCo government in the late 90's to 2002.

I've also worked extensively on state-wide issues, with the association of counties, UPC, and the county attorneys' association, and I've ended up doing a lot of work with the Legislature on laws that help shape county government in Utah. I don't know if I could ever say I've enjoyed sausage-making on the Hill, but it has always been challenging and interesting. I don't get to the courtroom very often, but I know where the courthouse is located – my most embarrassing court moment came when I once showed up early for a hearing – 5 minutes and 30 days early. What to change in criminal justice – do away with the exclusionary rule, which was a big project of mine in law school and early years with SLCO and the focus of some bills I worked on with SWAP in the early 80's – you know where that ended up. I'd vote for more crime in the future: it's job security and, let's face it, it's a growth industry. What sets me apart from most prosecutors? I never prosecute.

Law School: BYU - J. Rueben Clark Law School

Favorite Food: Thanksgiving Dinner

Last Book Read: *World War Z: An Oral History of the Zombie War*.

Favorite Music: Anything by Creedence Clearwater Revivial

Favorite Quote: " I am a little fuzzy on this good/ bad thing." (*Ghostbusters*)

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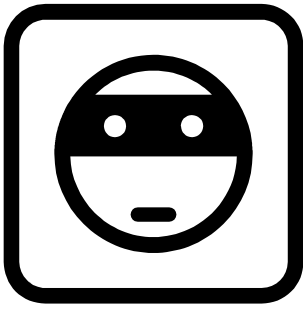
in which the police obtained the warrant to draw his blood violated the Utah and United States constitution because it was not accompanied by an oath or affirmation.

The Utah Supreme Court examined whether Utah's eWarrant system comported with the requirements of the United States Constitution. The court affirmed the judgment of the lower court. The court explained ,given the original understanding of an "affirmation" at common law, the language contained in the eWarrant system was sufficient to satisfy the constitutional requirement that warrant be accompanied by an oath or affirmation. The court further held that, just because the language use by the eWarrant system is directly taken from the Utah code relating to unsworn declarations, it does not have to be interpreted as such. Moreover, the court held "oaths" or "affirmations" in relation to the eWarrant system do not have to include statements subjecting the affiant to felony penalties for perjury.



State v. Guitierrez-Perez, 2014 UT 11

Utah Supreme Court Clarifies Rule 24 under Utah Rules of Appellate Procedure

Cody Nielsen (defendant) met Trisha Autry (victim) in April of 2000 and began regularly following her while Autry walked home from school. Autry repeatedly express her fear of the defendant to her friends and family. Several months later, Autry mysteriously disappeared. Based on the items remaining in Autry's room, her mother testified she had not voluntarily left the house voluntarily on the night she disappeared.

Several weeks prior to the incident, defendant's coworkers claimed they witnessed the defendant digging large holes with a backhoe in a field behind the defendant's place of employment. Following the efforts of a private investigator, police searched this field and found Autry's remains in a hole that was dug by the defendant. Defendant was charged with aggravated murder, two counts of desecration of a human body, one count of kidnapping, and one count of aggravated kidnapping. He was eventually convicted and sentenced to life in prison without the possibility of parole.

Nielsen challenged the findings of the district court, specifically a denial of his motion for a directed verdict on the kidnapping charge. The motion was denied because there was sufficient evidence to support the jury's verdict. After the defendant filed his appellate brief related to this issue, the state asked the court to stop short of reaching the merits because of the defendants failure to marshal the evidence, "specifically, his failure to present 'in a comprehensive and fastidious order, every scrap of competent evidence introduced at trial which supports they very findings the appellant resists.'"

The Utah Supreme Court clarified its position regarding the appellant's obligation to marshal all the relevant evidence to meet their burden of persuasion pursuant to rule 24 of the Utah Rules of Appellate Procedure. After highlighting the "less than complete" approach the court had taken to this rule in past decisions, the court held an appellant who wishes to prevail in challenging the sufficiency of the evidence to support a factual finding or a verdict but fails to identify and address the supporting evidence will never meet the burden of persuasion to overcome the deferential standard of review applied to such challenges. However, the court continued, judges are still granted broad discretion to overlook such procedural failures and proceed to the merits. This is opposed to the courts former, bright-line approach where the court would not proceed to the merits if the appellant did not adequately marshal the evidence in the appellate brief. The court ultimately affirmed the lower court's denial of a motion for a directed verdict along with the defendant's conviction for aggravated murder and desecrating a dead body.

State v. Nielsen, 2014 UT 10

Utah Supreme Court Rejects Tenth Circuit *Forum Non-Conveniens* Approach

Energy Claims Limited (ECL), a British Virgin Islands based company, brought suit against Catalyst Investment Group Limited (Catalyst) after the two corporations entered an agreement. The agreement stipulated Catalyst would provide financial advice and assist ECL raise $5 million to develop thermal chip technology. The agreement contained a forum selection and choice of law provision, which provided that the agreement would be governed by the laws of England. ECL and Catalyst subsequently made a subscription agreement that superseded the terms of the initial contract, which also contained the same forum selection and choice of law provisions. After ECL became insolvent and filed for chapter 7 bankruptcy, they brought suit against Catalyst for (1) breach of fiduciary duty (2) civil conspiracy and (3) aiding and abetting breaches of fiduciary duty. Catalyst moved to dismiss the case for *forum non conveniens,* improper venue and lack of personal jurisdiction based on the subscription agreement signed by both parties. The appellate court granted both motions.

ECL urged the Utah Supreme Court to

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adopt "a threshold choice-of -law inquiry that would require Utah courts to first determine whether Utah law applies to a given dispute, and, if so, bar dismissal on forum conveniens grounds without undertaking the forum non conveniens analysis." This test comes from the Tenth Circuit's decision in *Gschwind v. Cessna Aircraft*. The court rejected ECL's proposal, holding this approach would be "inconsistent with the need to maintain flexibility in the forum non conveniens analysis." The Court explained if ECL's proposal was adopted, then a Utah court would be unable to dismiss a suit based on a choice-of-law provision, regardless of how inconvenient litigation in Utah was to the non-moving party. Based on this reasoning, the court affirmed the dismissal.

Energy Claims v. Catalyst Investment, 2014 UT 13

Appeal Denied Pursuant to Rule 4(c) of Utah Rules of Appellate Procedure

During a January 17 hearing, the district court orally ruled on and granted several of the defendant's motions to dismiss. However, the court did not dispose of all the claims and parties. Defendant attempted to appeal the court's order. He filed his notice of appeal on January 31. Two weeks later, on February 14, "the district court entered a written order incorporating its prior order as the judgment of the court and certifying the judgment as final."

The Utah Court of Appeals dismissed the appeal for lack of jurisdiction due to the fact that the lower courts order was not final. The defendant argued that his January 31 appeal of the January 17 order was "perfected" pursuant to Rule 4(c) of the Utah Rules of Appellant Procedure. The court explained rule 4(c) only operates when a judgment is certified to be final. Because the rule 54(b) certification was not part of the January 17 order and only came after the defendant's notice of appeal, the notice followed the announcement of a non-final decision. As a result, the appellate court had no jurisdiction for lack of finality and dismissed the appeal.

Wood v. World Wide Association, 2014 UT App 106

Utah Court of Appeals

Juvenile Courts Granted Broad Discretion in Terminating Parental Rights

A.J. (mother) appeals a decision of the juvenile court to terminate her parental rights. Mother "asserts that the juvenile court erred in determining that it was in the child's best interests to terminate Mother's parental rights."

The Utah Court of Appeals reiterated the standard when considering whether to overturn a juvenile courts decision to terminate parental rights. The court held "in order to overturn the juvenile court's decision, the result must be against the clear weight of the evidence or leave the appellate court with a firm and definite conviction that a mistake has been made." Stated differently, the juvenile court has broad discretion in regards to the termination of parental rights. Moreover, the court explained when a juvenile court's decision is grounded in evidence, the appellate court may not "re-weigh" the evidence.

After examining the record, the court affirmed the decision of the juvenile court because the evidence was sufficient to sustain the termination of the mother's parental rights.

In re M.C. and A.J., 2014 UT App 106

Labor Commission's Decision Upheld Despite Conflicting Medical Reports

Paul McClendon, an employee of Swift Transportation, was involved in an industrial accident in which he was hit in the face with chemicals and fell 6 feet.. As a result, McClendon suffered various physical and cognitive impairments. McClendon attempted but ultimately failed to return to his typical duties. Swift terminated McClendon because he was unable to perform his job. McClendon underwent physical examinations from Swift's physician and his private medical provider, which produced conflicting opinions related to the cause of McClendon's injuries. After his termination, McClendon filed for total permanent disability benefits with the Utah Labor Commission (the commission). The Commission ultimately determined that there was a "demonstrable connection between the accident and McClendon's physical and cognitive problems." Swift was ordered to pay McClendon benefits.

Swift challenges the commission finding that McClendon's impairments hindered

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his ability to execute the essential functions of the work he performed prior to the accident. The Utah Court of Appeals affirmed the judgment of the Labor Commission. The court explained, in order for an employee to be entitled to disability benefits, the employee must demonstrate that the industrially caused impairments have prevented the employee from performing the essential functions of the work for which the employee was qualified prior to the accident. The Court held the commissions factual findings will not be disturbed unless the challenging party demonstrates that the findings are not demonstrated by substantial evidence. The Court affirmed the commission's findings because Swift failed to marshal all the evidence or otherwise acknowledge and deal with the commission's factual findings. The court emphasized the commission is the ultimate fact finder and is not bound by the conclusions of any other medical panel or practitioner.

Swift Transportation v. Labor Commission, 2014 UT App 104

Denials of Post-Conviction Relief Must Provide Notice and an Opportunity to Be Heard

Defendant was convicted of securities fraud and filed several direct appeals for his conviction and several petitions for post-conviction relief. The district court denied the petition because all the issues raised had previously been presented and rejected by the appellate court. However, pursuant to Utah Code section 78B-106(2)(b), a district court may raise a procedural bar on its own motion, but it must also give notice to the party and an opportunity to be heard. The Utah Court of Appeals reversed and remanded the district court's dismissal because the court neither gave the defendant notice nor an opportunity to be heard per 78B-106(2)(b).

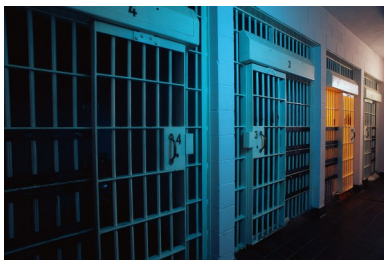
Schwenke v. State, 214 UT App 103

Plaintiff's Claims Dismissed Under Rule 41 (b) URCP

Vladimir Steinberg (appellant) brought claims against Community Housing Services (landlord) for conversion and violation of the right to quiet use and enjoyment. On March 25 2011, appellant gave the landlord a notice of his intention to vacate the premises. Although the tenant alleged that he did not intend to move out until the end of April, he moved the majority of his belongings out of the apartment prior to April 1. In reliance on this notice, the landlord began to renovate the apartment. The appellant filed a complaint against the landlord for conversion of the violation of the right to quiet use and enjoyment.

At the close of the plaintiff's case, the landlord moved to dismiss the case pursuant to rule 41(b) of the Utah Rules of Civil Procedure. The district court granted the motion, finding the appellant did not present credible testimony or evidence in light of many factual contradictions to establish his claims. Specifically, the appellant's testimony was inconsistent regarding the actual date he meant to vacate the apartment, and he produced no corroborative evidence to establish his conversion claims.

The Utah Court of Appeals affirmed. The court stated it will always defer to the trial court's decision in regards to 41(b) motions, so long as the decision is not clearly erroneous. The court held the trial court did not commit any error because its conclusions were grounded in fact. The court also reiterated it would not reweigh the facts of the case, given the trial court's role as the fact finder.



Steinberg v. Community Housing, 2014 UT App 102

Department of Workforce Services Immune from Suit Under the ADA

Lorin Blauer, former legal counsel to the Department of Workforce Services (DWS), brought suit against the DWS, claiming the DWS violated his rights under the Americans with Disabilities Act (ADA) and the UADA, which is Utah's equivalent of the ADA. Blauer suffered from an array of medical conditions that were determined not to rise to the level to require ADA accommodations. Blauer then took leave under the Family and Medical Leave Act (FMLA). After his leave time expired under the FMLA, Blauer refused to return to work until the DWS agreed to make the accommodations he sought. DWS subsequently terminated his employment.

Blauer brought his claims into state district court, alleging that the DWS violated his rights under the ADA and that the UADA was unconstitutional. The court dismissed his claims, stating that his claims were

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barred under sovereign immunity pursuant to the principles of the Eleventh Amendment. The Utah court of appeals reiterated the principles of sovereign immunity, explaining that the Eleventh Amendment bars suits based on federal law from being brought into state court.

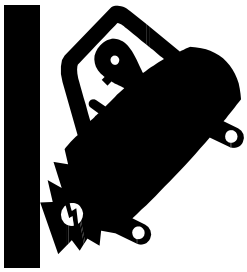
Blauer also alleged that, because Utah accepted Federal grants for ADA programs, it waived its sovereign immunity with respect to ADA claims. The court rejected this argument, holding acceptance of federal funding does not constitute a wavier of sovereign immunity, unless Congress explicitly states otherwise. Because Congress did not explicitly condition Utah's receipt of federal funding on waiving its sovereign immunity for ADA claims, Blauer's suit was barred. Blauer also alleged that Utah waived its sovereign immunity when it implemented the UADA, which provided employees the right to pursue administrative remedies. The court rejected this argument as well. Citing Pennhurst v. Halderman, the court held a state's waiver of sovereign immunity must be clear and unequivocal; offering an employee a remedy is not tantamount to a waiver of sovereign immunity.

Blauer v. Departement of Workforce Services. 2014 UT App 100

Articles of Organization Constitute Notice for Agency Limitations

Michael Oliphant entered into a lease agreement with Zions Gate R.V. Resort's (Zions) agent, Darcy Sorpold. Zions brought suit against Oliphant for unlawful detainer, alleging the lease to be invalid because Sorpold was unauthorized to unilaterally enter into lease agreements on behalf of Zions. Under Zions' articles of organization, which was registered with the state, agreements made on behalf of Zions required the signature of two managers. Because Sorpold unilaterally signed the lease agreement, Zions claimed he lacked the authority to do so. Both parties filed cross-motions for summary judgment. The trial court granted Oliphant's summary judgment motion and found the lease agreement to be valid.

Zions argued the district "erred in concluding that the lease was valid and enforceable." The Utah Court of Appeals considered whether Sorpold had authority to sign unilaterally the lease agreement pursuant to the Utah Revised Limited Liability Company Act or under common-law agency principles. The court held Sorpold lacked the authority to sign the lease agreement pursuant to Utah Code §48-2c-802(2)(c), which states a principle is not bound to the terms of an agreement when it is executed by an agent who lacks authority to make such agreements under the company's articles of organizations. Given that Zions articles of organization require the signature of two managers, Sorpold lacked the authority to sign the lease agreement. The court also held Oliphant had notice of Sorpold's insufficient authority because the articles of organization were public record.



Oliphant also claimed Zions ratified the agreement implicitly. The court held whether Zions ratified the agreement was a question of fact that had not been discussed sufficiently by the district court. Consequently, the court reversed the district court's decision and remanded the case to determine whether ZIons implicitly ratified the lease agreement.

Zions Gate R.V. Resort v. Oliphant, 2014 UT App 98

Termination of Parental Rights Appropriate when Evidence Supports Any Grounds

N.V. (the Father) appealed the juvenile court's order to terminate his parental rights. Specifically, the Father challenged the sufficiency of the evidence to support the court's findings that the father "had neglected, willfully refused, or been unable or unwilling to remedy the circumstances that caused the child to be in an out-of-home placement." The father had been incarcerated for all but five weeks of the proceedings. The Utah Court of Appeals affirmed the judgment of the juvenile court. The court stated in order to overturn a juvenile court's decision, "the result must be against the clear weight of the evidence or leave the appellate court with a firm and definite conviction that a mistake has been made." Also, when the juvenile court's decision exists in evidence, an appellate court may not reweigh the evidence.

The court affirmed the judgment of the juvenile court, holding the evidence sufficiently supported the juvenile court's decision. More notably, the court emphasized the father's failure to

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challenge all of the juvenile court's findings. Under Utah Code §78A-6-507, termination of parental rights is appropriate if sufficient evidence supports any grounds for termination. Consequently, the father's failure to challenge all of the grounds the juvenile cited in terminating his parental rights was fatal to his appeal.

In re N.V. (N.V. v. State), 2014 UT App 94

Utah Court of Appeals Clarifies the Notice Transfer Test

Michael Wright (appellant) was involved in a traffic accident with William Dunn, who was employed by PK Transport. Appellant filed his complaint seven months before the statute of limitations expired. Appellant then filed an amended complaint 18 months after the statute of limitations ran to add another party, Richard Riding (appellee). The appellant acknowledged that the statute of limitations had expired but argued his claim against the added defendant was proper under the doctrine of relation-back pursuant to the Utah Rules of Civil Procedure. The district court found the complaint did not relate back and dismissed the claims against the appellee.

The Utah Court of Appeals affirmed the judgment of the district court. The court explained Utah courts allow amendments to relate back in (1) misnomer cases and (2) where there is a true identity of interests. No misnomer was alleged in this case, so the court considered solely whether there was a true identity of interest between the original and prospective defendants. The court further explained that, in order to prevail on a relation-back argument based on an identity of interest, the moving party must show (1) the amended pleading rises out of the same transaction or occurrence as the original pleading and (2) the added party received actual or constructive notice of the claims. It was undisputed that the amended complaint satisfied the former element, so the court only considered the latter.

The court reiterated the Notice Transfer Test, which is used to determine if a party received constructive notice. In this case, however, the appellant argued that the appellee received actual notice. The court rejected this argument, holding "actual notice for purposes of rule 15(c) requires that, prior to the running of the statute of limitations the newly added party have actual notice of the plaintiff's claims and not merely notice of the underlying event." In this case, the record revealed the appellee did not have actual notice of the claim till eight months after the statute of limitations had run. Given this lack of actual notice, the court affirmed the judgment of the lower court and held the appellant amended complaint was barred by the statute of limitations.

Wright v. PK Transport, Paradise Turf, and Richard Riding, 2014 UT App 93

Need for Expert Witnesses Determined on a Claim by Claim Basis

Mark and Irene White (plaintiffs) entered into an

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agreement with the defendant in which the defendant agreed to be a financial coach for the plaintiffs. Defendant encouraged plaintiffs to pursue four different investment opportunities, all of which involved third parties. None of these investments produced the returns promised to the plaintiffs, and some even resulted in a loss. Plaintiffs filed claims against the third parties involved in the various transactions and eventually brought suit against the defendant for breach of fiduciary duty and for violating Utah securities law. Defendant filed a motion dismiss with the district court for the plaintiffs failure to add parties pursuant to rule 19 of the Utah Rules of Civil Procedure and for failure to designate an expert witness. The district court granted both motions. The district court found the above mentioned third parties were indispensable to the plaintiffs' claims and "in the absence of expert testimony on the requisite standard of care, causation, securities, and damages, Plaintiffs…[would] be unable to prove their claims.

The Utah Court of Appeals reversed the decision of the district court, holding the various third parties were not indispensable because the plaintiffs had made no claims against these third parties or had already done so in a separate cause of action. Moreover, the plaintiff's claims were "expressly limited to the defendant's acts or omission." The court also held the district court's determination that the plaintiffs could not succeed on their claims without expert testimony was overly broad and thusly an abuse of discretion. The court reasoned that, when determining whether a party must designate an expert witness, a court must examine each individual claim, rather than all claims collectively as the lower court did. The case was ultimately remanded for the district court to analyze the need for expert testimony on each of the plaintiff's claims.

White v. Jeppson, 2014 UT App 90

Reasonable Person Standard Used to Determine Constitutionality

Defendant was traveling eastbound on 5300 South. The entrance for eastbound traffic to enter southbound I-15 was closed. Defendant traveled beyond that entrance and made a sharp right turn to enter the entrance intended to allow westbound traffic to enter I-15 southbound. Defendant was cited for unlawful entry onto a controlled access highway, a class C misdemeanor, in violation of UCA 41-6a-714. Defendant challenged the constitutionality of the statute as applied to him, claiming the entrance for westbound traffic was an approved entrance and it was not clear that he could be cited for using it from the direction he was driving. The district court denied the vagueness challenge holding, "it should be clear to just about anybody...that you can't use the [that ramp]."

Defendant appealed making the same claims. The appellate court held defendant did not demonstrate UCA 41-6a-714 unconstitutionally vague as applied to him because it was obvious to a reasonable person that the blocked freeway entrance was the one intended for him to use and the one he did use was prohibited for traffic traveling the same direction as the defendant. The court concluded the defendant did have adequate notice of the conduct proscribed by the statute ,and the statute was constitutional as-applied to him.

Murray City v. Robinson, 2014 UT App 107

Conviction Determined by Statute in Place at Sentencing

In 2006, defendant pled guilty to two counts of unlawful sexual activity with a minor, both third degree felonies. Defendant's plea was made pursuant to a written plea agreement between defendant and the State. As part of that agreement, the State agreed to recommend, upon Defendant's satisfactory completion of probation, reduction of his felony convictions to class A misdemeanors. The court accepted the plea agreement and intended to grant the motion to reduce the convictions at the end of defendant's probation.

After defendant completed his probation, he filed a notice of completion of his probation and a notice to submit his 402 motion requesting a reduction in his sentence. The State responded by acknowledging the plea agreement was entered into in good faith by both sides and the State still stood by the agreement.

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However, the State also informed the district court that the Utah Legistlature had amended section 76-3-402 to prohibit a reduction in a conviction during the time a defendant is required to register as a sex offender, i.e., until ten years after the termination of sentence. The district court denied the 402 motion, choosing not to reduce the sentences.

Defendant appealed claiming the court erred in denying the 402 motion. The Utah Supreme Court held that the right to seek a reduction in conviction is a substantive right that vests at the time of initial sentencing. The appellate court held the motion to reduce a conviction is governed by the version of the statute in effect at the time of initial sentencing. In this case, when the defendant pled guilty 76-3-402 did not prohibit a reduction in the degree of a conviction for registered sex offenders. However, when defendant was sentenced 76-3-402 had been amended to include the prohibition affecting defendant. The appellate court held the district court was correct in its application of section 76-3-402 limitation and in its denial of defendant's 402 motion.

State v. Holbrook, 2014 UT App 97.

Sufficient Connections Allow Felonies to Be Charged Together

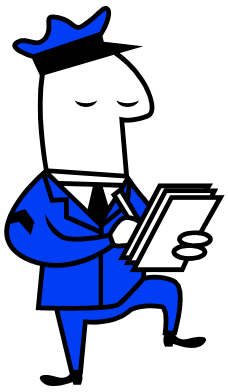
Defendant was allegedly involved in four separate robberies. Defendant was in a fight in a parking lot that ended in a Taqueria. During the altercation, defendant demanded the money and car keys of the person he was fighting and then demanded the money from the business. Defendant left in a blue Nissan. Later that day, a man committed a similar robbery at a local restaurant, gas station, and a Burger King. The same car was seen leaving each location. Later that day, the defendant was seen in the same blue Nissan by a police officer. The officer followed the car to a hotel where the defendant barricaded himself in his room. After a SWAT team arrested the defendant, he was charged with a variety of crimes.

Defendant moved to sever the first three aggravated-robbery counts stemming from the Taqueria robbery. The trial court denied the motion and defendant appealed. The appellate court held a decision to sever is only reversed if it is "a clear abuse of discretion in that it sacrifices the defendant's right to a fundamentally fair trial." The appellate court held, under UCA 77-8a-1 multiple felonies may be charged together when two conditions are met. The first condition is that the charges are sufficiently connected. The connection is sufficient if the offenses are based on the same conduct, otherwise connected together in their commission, alleged to have been part of a common scheme or plan. The second condition is that neither the defendant nor the prosecution would be prejudiced by a joinder.

The appellate court held the defendant's crimes were connected by the time frame, the car, and the crime spree. The court also held the defendant did not show that joinder of the charges prejudiced him because he was required "to show something more than the fact a that a separate trial might offer him a better chance of acquittal." The judgment of the trial court was affirmed. State v. Benson, 2014 UT App 92

Court Clarifies Standard to Overturn Evidentiary Ruling

Defendant was arrested for interfering in a U.S. Marshal's attempts to serve a warrant for the arrest of defendant's cousin. Defendant was convicted of obstruction of justice and driving on a suspended or revoked license. At trial, the defendant testified he thought the marshal was not a real law enforcement officer. However, the marshal testified he displayed his knowledge of different statutes dealing with harboring a fugitive, corroborating his identity as a U.S. Marshal. Also, the defendant's mother even testified she thought the man was a law enforcement officer.. However, the trial court stopped the State from delving deeper into defendant's criminal history.



Defendant appealed claiming he was prejudiced because of the evidence that was introduced. The appellate court held, in order to overturn an evidentiary ruling, the defendant must show he was actually prejudiced and there would have been a different outcome at trial. The appellate court held defendant did not show there would have been a different outcome because there was overwhelming evidence that he had tried to interfere with the arrest of his cousin.

State v. Landon, 2014 UT App 91.

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Unwitting Confession Admitted as Evidence

Police were investigating sexual abuse of a child. The defendant was later identified as a suspect, and investigators contacted him to ask if he would come to the police station for an interview. The defendant complied and attended the interview. A video recording showed the defendant sat in a chair, unrestrained, and listened to a police officer read him his rights. After the officer recited the defendant his rights, the officer said if the defendant understood his rights, then he should sign at the bottom of the page. The video then shows the defendant signing the paper. The officer instructed the defendant to describe what he knew about the child who had been sexually abused. At the conclusion of the defendant's remarks, the officer arrested the defendant. The interview lasted about ten minutes, and the defendant neither refused to answer a question nor asked for a lawyer. However, the police lost the rights acknowledgment that the defendant signed.

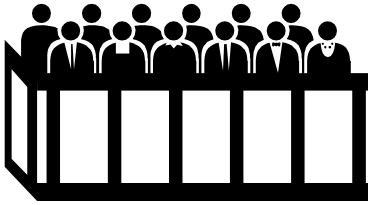
Defendant moved to suppress the interview, but the motion was denied. Defendant appealed the trial court's denial of his motion to suppress. The court of appeals held defendant's confession was voluntary, and he was clearly aware of his rights. The court of appeals affirmed the trial court's decision on the admissibility of his police confession. The court held any error in the handling of other evidence was inconsequential because the confession was enough for a conviction.

State v. Rodgers, 2014 UT App 89

Defendant Not Prejudiced by Judge-Jury Interaction

Defendant was charged with misdemeanor sexual battery. Defendant was convicted and appealed claiming plain error in questioning a potential juror, plain error in allowing a trial without a defense witness, and verdict coercion by the trial court.

During voir dire, juror 10 indicated he was an associate director at Salt Lake County Criminal Justice Services.



He also indicated his work associations would not prejudice his opinion. Defendant argued on appeal that the judge should have questioned him further. The court of appeals held, while further questioning was allowed because of his employment, it was not required. The appellate court held there was no plain error in allowing juror 10 to serve on the jury or even as jury foreperson.

Defendant claimed he was prejudiced when the court held the trial even though a defense witness did not appear to testify. The court asked both parties if they were ready for trial. Both said yes and then the court went on to choose a jury. After the jury was chosen, the defendant informed the court his witness did not appear. The court granted a recess for defendant to contact the witness, but he was unsuccessful. The court chose to move forward with the trial and asked defendant if he was willing to proceed. He said he was ready and did not request a continuance or ask the court to procure the witness by bench warrant.

The appellate court held there was no plain error because defendant did not subpoena his witness, was given a chance to contact him, and did not object to trial or request a continuance. Furthermore, the appellate court held the defendant did not show he was prejudiced because he did not show that the witness would have affected the outcome of the trial.

The defendant claimed the jury was pressured into finding him guilty because they changed their minds after the judge inquired about whether they would be able to reach a decision. Both parties asked the judge to inquire as to whether the jury could reach a verdict. The judge did so, and when the jury was excused, they returned to announce a guilty verdict.

The appellate court held defendant invited the trial court to poll the jury, did not object to the court's decisions to send them back to determine if a verdict could be reached, and the court's interactions with the jury did not place any undue pressure on the jury. Salt Lake City v. Almansor, 2014 UT App 88.

Tenth Circuit Court of Appeals

Car Passenger Has No Standing to Challenge Warrantless Search

Mark R. Davis (defendant) was convicted of robbery, using a firearm during a robbery, and being a felon in possession of a firearm. Mr. Baker, the defendant's associate, entered and robbed at gun point

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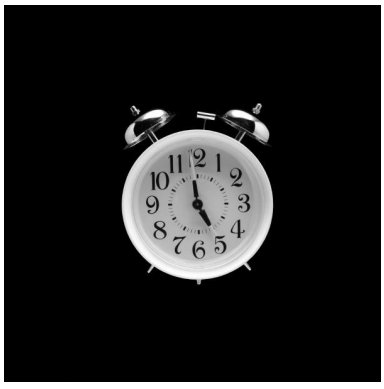
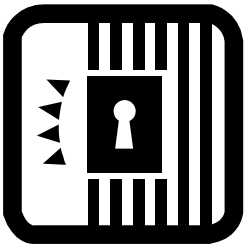
a RadioShack while the defendant remained in the vehicle. The vehicle belonged to neither the defendant nor to Mr. Baker but to Baker's girlfriend. Prior to the robbery, police suspected that robberies were being perpetrated by suspects using a car owned by Baker's girlfriend. Without securing a warrant, police officers installed a GPS tracking device on the rear bumper of this same car. One day prior to the robbery, police also secured a warrant to track the GPS coordinates from Baker's phone.

Following the robbery, police were notified. By using a combination of GPS coordinates from the phone and car, visual observations, and knowledge that Baker resided near [the RadioShack]," the police were able to locate the vehicle containing Baker and the defendant. The police searched the vehicle and recovered evidence that implicated both Baker and the defendant. Both men were taken into custody and prosecuted separately.

The defendant filed a motion to suppress the evidence obtained through the search of the car. He alleged the search violated his Fourth Amendment rights because the GPS device was placed on the vehicle without a warrant. The district court denied the motion.



The Tenth Circuit held the installation of GPS devices does constitute a search but may violate a person's Fourth Amendment rights. However, the court also explained legal standing is the threshold issue in unlawful search challenge—"standing is required regardless of whether the illegal search yields the inculpating evidence or is merely the catalyst in a reaction ultimately producing such evidence." The court affirmed the lower court's denial of the defendant's motion to suppress the evidence because Davis did not own or regularly drive the car. Those factors led the court to hold the defendant lacked sufficient standing to challenge the warrantless search. The court explained that the search of the car may have violated someone's rights but not the defendant's.



United States v. Davis, 10th Circuit, No.13 -3037

No Temporal Limitation for Pattern of Activity Increase in Sentencing

Lawrence Lucero was charged and plead guilty to three counts of receipt of child pornography and two counts of possession of child pornography. As a result of Lucero's admission that he sexually abused two young girls 35 years prior to the present incident, the district court increased his offense level by five at the sentencing hearing. The United States sentencing guidelines provide for a five level increase when the defendant has engaged in a pattern of sexual abuse toward minors. As a result, Lucero was sentenced to 78 months in prison. Lucero appealed his sentence, claiming the sentence is both procedurally and substantively deficient.
The Tenth Circuit affirmed Lucero's sentence. Lucero argued that the court incorrectly calculated his sentence when it applied the five-level pattern of activity enhancement. He argued that this guideline should consist of a temporal limitation, given his previous acts of sexual abuse occurred 35 years prior. Based on the plain meaning of the sentencing guidelines, along with the commentary, the court refused to impose a temporal limitation on the sentencing provision, especially in the absence of legislative intent. The court also rejected Lucero's agreement that his sentence was substantively deficient because his prior acts of sexual abuse were not reasonably related to his present charge. However, the court held the sentencing statute contained no requirement that the "pattern of activity supporting the enhancement be related to the conviction at all." As a result, the court held the ruling of the lower court to be reasonable. Moreover, Lucero failed to meet his burden of overcoming the presumption of reasonableness that is attached to sentencing guidelines.

United States v. Lucero, 10th Circuit (2014), No. 13-2084

Other Circuits/ States

En Banc Panel Reviews Confessions and Conditions of Supervised Release

Tymond Preston (defendant) was charged with abusive sexual contact for raping his eight-year old, male cousin. The defendant suffered from a slight mental handicap and had an I.Q. of 65. The young boy entered the defendant's home and then ran out of the house, crying and visibly upset. The victim reported the incident to his family, and they subsequently called the police.

The police interviewed the defendant for approximately 45 minutes. During this interview, the police repeatedly reminded

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consider that the Official Code of Georgia made it a crime to attempt to seduce or solicit a child to commit an illegal act enumerated in the statute. The court held Cosmo was guilty of the crime of attempt because, although he never directly communicated with the child, he had the specific intent to engage in unlawful sexual activity and he took substantial steps toward that end. He manifested his intent by communicating with an adult intermediary. Cosmo took substantial steps toward committing the crime when he traveled to meet the child at a designated time and place. When taken into custody, Cosmo was also found carrying cash and condoms. The combination of these factors led the court to hold that Cosmo was guilty of the crime of attempt.

State v. Cosmo, Supreme Court of Georgia (2014)

First Amendment Does Not Protect "True Threats" Aimed at Public Officials

Defendant, Daniel Brewington, was convicted of intimidating a trial judge. Brewington intimidated the judge that presided over his divorce proceedings. The judge, after considering the testimony about the defendant's mental health, decided to suspend the defendant's parenting time, pending a psychological evaluation. The defendant responded by posting the judges home address on the internet, along with making accusations that the judge was a child abuser.

The court of appeals reversed the ruling of the district court on double jeopardy grounds. The Indiana Supreme Court reversed and affirmed the decision of the district court. The supreme court explained that the court of appeals failed to distinguish between verbal attacks of an individual's reputation and those that threaten their safety. The court held such "true threats" do not enjoy First Amendment Protection. The court explained a "true threat" is one where the speaker intends to place the victim in fear of bodily injury. The court viewed the totality of the circumstances along with the context surrounding these threats. After examining the record, the court held the defendant intended to place the judge in fear of his safety and "such communications were likely to actually cause such fear in a reasonable person similarly situated." The court focused on a letter the defendant wrote in which he "promised" to retaliate against the judge.

Brewington v. State of Indiana, 2014 BL 121845, Ind., No. 15S01-1405-CR-309

John R. Justice Grant Information

Funds have been made available to the State for distribution under the JRJ Grant. The window to submit applications will open **June 1, 2014 and close July 9, 2014.** Watch for an e-mail containing the application as well as a link to the website in the next couple of days. If you have any questions, Bob Church at (801) 366-0201 or at rjchurch@utah.gov.

WE WANT YOU!

Over the coming months you may start to see some changes to our monthly newsletter. We want you to be part of those changes so please start sending us:

- Photos from events you hold or sponsor.
- Really cool photos you've taken.
- Guest articles.
- Articles of interest.
- Unique issues you're facing.
- New defense strategies you're seeing.
- Your "a-ha" moments.
- Copies of forms, checklists, motions, etc.
- Things you have in your "Tool-box."
- Anything you believe would be of interest or benefit to the rest of us.
-

Send your submissions to the new UPC Prosecutor Newsletter e-mail address at:

upcprosecutor@utah.gov

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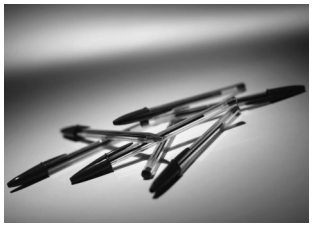
the defendant that he was not under arrest and free to stop answering questions at any time. After claiming there was evidence that could implicate the defendant, the police claimed if the defendant confessed to raping the boy, it would remain between them and the attorney general. The defendant subsequently signed a confession. The defendant was ultimately sentenced to fifty months imprisonment and a life time term of supervised release. His release was conditioned on not possessing any sexually stimulating material and not being in the company of anyone under the age of 18 without prior approval of a probation officer.



The defendant argued that his confession was involuntary and thus improperly admitted as evidence. Also, although the defendant did not object to the conditions of his release, the en banc panel reviewed the conditions for reasonableness. The Ninth Circuit affirmed the decision of the lower court to admit the defendant's confession as evidence. The court held the confession was not involuntary even though the interviewing agents used misrepresentations. The court held misrepresentations in of themselves are not improper, and agents are permitted to use a variety of tactics to secure a confession. Furthermore, the fact that the defendant suffered from a mild mental handicap did not "give the officers reason to believe that… [the defendant] could not comprehend their questions."

The appellate court remanded to the lower court to clarify the conditions of the defendant's supervised release. The court held proscribing the possession of sexually stimulating material was not sufficiently definite to enforce. Also, the court stated disallowing the defendant from being in the company of anyone under the age of 18 lacked a mens rea requirement because the defendant would have to know the age of anyone he came into contact with. Also, the condition had serious due process implications. If the defendant were to have children in the future, he could not associate with them without the permission of his probation officer. The court highlighted that the district court failed to point to any evidence in the record to justify this condition. As a result, the release provisions were remanded for clarification.

United States v. Preston, 9th Cir, No. 11-10511

DUI Suspects Entitled to Legal Counsel before Chemical Testing

Defendant, Jonai Washington, was charged with second-degree vehicular manslaughter after she hit and killed a pedestrian. Washington admitted to the police she had consumed approximately four beers prior to the accident. After she was transferred to police headquarters, defendant's family contacted an attorney to represent her. The attorney contacted the police station and instructed the officer not question or test his client. Before the defendant was notified her family had secured an attorney for her and that the attorney had contacted the police station, she consented to and completed a blood test. At the trial court, the defendant filed a motion to suppress the evidence obtained through the blood test because it violated her right to counsel.

The New York court of appeals affirmed, holding the police violated the defendant's right to counsel prior to blood testing. Citing *People v. Gursey*, the court stated a defendant arrested for driving under the influence has a right to ask for an attorney, and upon such request, the police may not impede the defendant's ability to communicate with their counsel. When this right has been abridged, the results of any chemical testing will often be inadmissible. The only exception is when a defendant requests counsel for the purpose of postponing time-sensitive chemical testing or when conferring with counsel would interfere with the timely administration of the test.

Because the police failed to allow the defendant to communicate with her counsel and there was no showing that doing so would interfere with the test, the court affirmed the decision of the Supreme Court.

The People v. Washington, 2014 BL 125423, N.Y., No. 65

Direct Communication Not Required for Conviction of Solicitation

Defendant, Dennis Cosmo, was convicted under a provision of the former Computer or Electronics Pornographic and Child Exploitation Prevention Act. His conviction was revered by the appellate court because there was no evidence that Cosmo directly communicated with a child. Cosmo had communicated via internet with an undercover police officer who was soliciting Cosmo to engage in a sexual encounter with herself and her fictitious children. Cosmo never communicated with anyone he believed to be a child. The Supreme Court of Georgia granted certiorari and reviewed whether direct communication with a minor child was required for conviction under the statute.

The court reversed the holding of the appellate court, holding direct communication was not required for conviction and the appellate court failed to

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On the Lighter Side

Your Local Ice Cream Truck Driver May Be a Meth Dealer

After purchasing some ice cream from the "Ice Cream Man," a customer not only received his change, but also a bag of meth from the driver. Despite the driver's protests to the customer that he did not know where the meth came from, the customer called the police. The driver was arrested and charged with possession and transportation of meth. If convicted, the driver will face 16 months to three years in jail. So, next time you here the nostalgic rhythms of "Pop Goes the Weasel!," think twice before letting little Suzy run out the door.
http://www.mercurynews.com/my-town/ci_25815480/brentwood-man-buying-3-ice-cream-gets-meth

Harry Potter and Strippers?

Robert Wallace, a Houston software developer, fell under the magic love spell of Nomi Mims, a local exotic dancer. Although the "couple" shared several wonderful weeks ensconced within their own chamber of secrets, the relationship turned sour. Now, Wallace is suing Mims to recover his Harry Potter DVD collection. Mims claims the DVD's were all gifts (I mean, strippers love magic too!) . She also claims she gave Robert gifts of her own. When asked about recovering the gifts she proffered Wallace with, she responded, " how do I get my booty and boobs back."
http://www.rawstory.com/rs/2014/05/19/

Contine to Tranining Calendar

Calendar

UTAH PROSECUTION COUNCIL AND OTHER LOCAL CLE TRAININGS

June 18-20	UTAH PROSECUTORIAL ASSISTANTS ASSN. ANNUAL CONFERENCE *Training for non-attorney staff in prosecutor offices*	Location TBA Wasatch Front
July 31 - August 1	UTAH MUNICIPAL PROSECUTORS ASSN SUMMER CONFERENCE *Training for city prosecutors and others who carry a misdemeanor case load*	Crystal Inn Cedar City, UT
August 18-22	BASIC PROSECUTOR COURSE *Trial advocacy and substantive legal instruction for new prosecutors*	University Inn Logan, UT
September 10-12	FALL PROSECUTORS TRAINING CONFERENCE *The annual CLE and idea sharing event for all Utah prosecutors*	Courtyard by Marriott St George, UT
October 15-17	GOVERNMENT CIVIL PRACTICE CONFERENCE *Training designed specifically for civil side attorneys from counties and cities*	Zion Park Inn Springdale, UT
November	ADVANCED TRIAL SKILLS COURSE *For felony prosecutors with 3+ years of prosecution experience*	Location TBA Salt Lake Valley

NATIONAL CRIMINAL JUSTICE ACADEMY

(NDAA will pay or reimburse all travel, lodging and meal expenses - just like the old NAC)

March 10-14	TRIAL ADVOCACY I Summary Agenda Application *Hands on trial advocacy training for prosecutors with 2-3 years experience*	Salt Lake City, UT
May 12-16	TRIAL ADVOCACY I Summary Agenda Application *Hands on trial advocacy training for prosecutors with 2-3 years experience*	Salt Lake City, UT
June 2-6	OFFICE ADMINISTRATION Summary Agenda Registration	Salem MA
June 9-13	TRIAL ADVOCACY I Summary Agenda Application *Hands on trial advocacy training for prosecutors with 2-3 years experience*	Salt Lake City, UT
June 9-18	CAREER PROSECUTOR COURSE Flyer Registration Hotel Info	San Diego, CA
June 2-6	OFFICE ADMINISTRATION Agenda Summary Registration *For Chief Prosecutors, First Assistants, Supervisors of Trial Teams and Administrative Professional Staff*	Salem, MA
June 16-25	CAREER PROSECUTOR COURSE Flyer Registration *NDAA's flagship course for those who have committed to prosecution as a career*	San Diego, CA
June 23-27	INVESTIGATION & PROSECUTION OF CHILD PHYSICAL ABUSE & FATALITIES Summary Registration	Baltimore, MD

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Calendar

NATIONAL DISTRICT ATTORNEYS ASSOCIATION COURSES* AND OTHER NATIONAL CLE CONFERENCES

June 23-27	UNSAFE HAVENS I	*Registration Closed*	Dulles, VA
	Investigation and Prosecution of Technology-Facilitated Child Sexual Exploitation. No registration fee for this course, which will be taught at AOL headquarters campus.		
July 7-11	TRIAL ADVOCACY I	Summary Agenda Application	Salt Lake City, UT
	Hands on trial advocacy training for prosecutors with 2-3 years experience		
July 14-17	ChildProtect	Summary Agenda Application	Winona, MN
	Trial Advocacy for Civil Child Protection Attorneys. By application only. 30 attys. will be selected to attend		
November	UNSAFE HAVENS II	(registration link forthcoming)	Dulles, VA
	Advanced Trial Advocacy for Prosecution of Technology Facilitated Crimes Against Children. No registration fee for this course. The course is by application and only 30 prosecutors will be selected to attend.		

* For a course description, click on the "Summary" link after the course title. If an agenda has been posted there will also be an "Agenda" link. Registration for all NDAA courses is now on-line. To register for a course, click on the "Register" link. If there are no links, that information has yet to be posted by NDAA.

Mark Nash Retirement
April 30, 2014

UPC Staff: Ron Weight, Donna Kelly, Marilyn Jasperson, Mark Nash, Ed Berkovich

Mark Nash, Marilyn Jasperson

Mark Nash, Paul Boyden

Mark Nash, Attorney General Sean Reyes

Steve Garside, Ryan Robinson

Scott Reed, Beta Nash, Mark Nash Ma

Sim Gill, Bob Stott, Mark Nash

Mark Nash, Brian Tarbet

Children's Justice Symposium/DV Conference
Zermatt Resort, May 13-15, 2014

Keynote Speaker, Preston Jensen

Leo Lucey, Greg Ferbrache

Laura Blanchard
Lifetime
Achievement
Award

Keynote Speaker
Dr. James Anderst

Keynote Speaker
Christopher Anderson

Mark Nash
Lifetime Achievement Award